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No. 93-1863

In the Supreme Court of the United States

OCTOBER TERM, 1994

MORTON MARKOFF, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether the district court abused its discretion in denying petitioner's motion for a new trial, based on his claims that the jury at his trial was exposed to extraneous information.

2. Whether, in reviewing the district court's denial of a new trial because of extraneous jury information, the court of appeals erroneously required or sanctioned an inquiry into the deliberations of the jury, in contravention of Fed. R. Evid. 606(b).

3. Whether an association between two legal entities can constitute an "enterprise" for purposes of the RICO statute.

4. Whether the district court erred in excluding testimony about collateral misconduct by a government witness.

5. Whether the district court erred in refusing to dismiss the indictment because of alleged prosecutorial misconduct before the grand jury.

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OPINION BELOW

The opinion of the court of appeals (Pet. App. A1-A54) is reported at 13 F.3d 641.

JURISDICTION

The judgment of the court of appeals was entered on December 22, 1993. The petition for a writ of certiorari was filed on March 3, 1994. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the District of New Jersey, petitioner was convicted on one count of racketeering, in violation of the Racketeer Influenced and Corrupt Organizations (RICO) statute, 18 U.S.C. 1962(c), one count of conspiring to engage in racketeering, in violation of 18 U.S.C. 1962(d), and 24 counts of mail fraud, in violation of 18 U.S.C. 1341.[1] Petitioner was sentenced to a total of eight years' imprisonment, to be followed by five years' supervised release, and was ordered to pay restitution. Petitioner subsequently moved for a new trial. The district court denied that motion, and the court of appeals affirmed. Pet. App. A1-A54.

1. Petitioner conspired with Richard P. Console and Edward C. Curcio to engage in acts of racketeering and mail fraud. Console and Curcio were partners in a law firm located in Berlin, New Jersey. The firm developed a specialty in personal injury litigation. Petitioner, an osteopathic physician who practiced in nearby Clementon, New Jersey, treated a large number of personal injury patients. Gov't C.A. Br. 7.

In the 1970s and the 1980s, the law firm developed an ongoing relationship with petitioner, whereby petitioner referred accident victims to the firm for legal services and the firm, in turn, referred its clients to petitioner for medical treatment. When treating a firm client, petitioner generated inflated and fictitious medical bills and sent those bills to the firm. The firm then mailed the fraudulent bills to the client's insurance company to receive payment of the client's personal injury

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[1] Petitioner was acquitted on 11 counts of mail fraud, and a mistrial was declared on 12 other mail fraud counts. Pet. 5.

protection (PIP) benefits under New Jersey's "no-fault" automobile insurance law. Petitioner then received the PIP payments for the false medical billings, and the firm retained a share of the fraudulently inflated settlements. Petitioner and the firm continued their deceptive scheme until federal agents discovered the fraud in 1985. Gov't C.A. Br. 10-11; Pet. App. A3-A4.

2. At trial, Marie Maugeri, the billing secretary in petitioner's office, testified about the practice of inflating medical bills for the law firm. On cross-examination, she denied falsifying her own claims. Gov't C.A. Br. 62. Petitioner then proffered the testimony of Kathy Carr Daley, another employee, who would have testified that Maugeri gave Daley false receipts to be sent to the firm for her own medical expenses and told Daley not to tell petitioner about her receipts. Daley's testimony would not have concerned a fraud specified in the indictment. The government objected to Daley's testimony as collateral and as barred by Rule 608(b) of the Federal Rules of Evidence, because it was extrinsic evidence of a witness's misconduct offered solely for the purpose of impeachment. The district court ruled that the evidence was inadmissible under Rule 608(b). *Ibid.*

3. About three months after petitioner's conviction, the government advised the district court that the jury may have been exposed to improper extrinsic influences during its deliberations. Gov't C.A. Br. 69. To determine whether such exposure had occurred, and if so, whether it had improperly influenced the jury, the district court held an *in camera* proceeding, at which it questioned the former jurors individually. The court learned that, during the jury's deliberations, one juror had remarked that she had mentioned the case to her sister-in-law, who was a matrimonial lawyer. That juror, identified as Juror 11, told the court that her sister-in-law had

informed her that all co-conspirators need not be tried together, that a conspiracy could include "turning a deaf ear on something," and that convictions on two predicate offenses must result in a RICO conviction. *Id.* at 69-70; Pet. App. A37.

Six of the twelve jurors had no recollection of the remarks, and the five jurors who recalled them did not believe the remarks had been significant. Gov't C.A. Br. 69. Juror 11 reported that, before she could discuss her sister-in-law's comments with the other members of the panel, another juror stopped her and said that a question on a similar matter had already been sent to the judge. The record also reflects that, after the court received that question, it immediately reinstructed the jury on the elements of the RICO and RICO conspiracy offenses. The jury then deliberated for two more days before reaching its verdict. *Id.* at 70.

After completing its questioning of the recalled jurors, the district court concluded that Juror 11's contacts with her sister-in-law were harmless. The court observed that, while some of Juror 11's comments were not correct statements of the law, they were offset by the presence in the jury room of a written set of instructions and the court's supplemental instruction, during deliberations, on the elements of the RICO and RICO conspiracy offenses. The court concluded that the jury was more likely to have relied on the court's instructions than on Juror 11's extraneous information. The court thus denied petitioner's motion to set aside the verdict. Gov't C.A. Br. 70.

Petitioner then sought a second evidentiary hearing because, during the questioning by the district court, Juror 11 accused other, unnamed jurors of reading newspaper accounts of the case before deliberations. The court denied petitioner's request. The court found that

Juror 11's demeanor when she made the accusation, as well as the context in which the accusation was made, indicated that she was attempting to deflect the focus of the questioning from herself and to blame the other jurors. Although the court did not find the allegation credible, it nevertheless reviewed the relevant newspaper articles published at the time of trial and assessed whether they would have been prejudicial if they had been read. Based on that review, the court determined that, even if Juror 11's accusations were true, the articles could not have been prejudicial to petitioner. Gov't C.A. Br. 70-71.

4. The court of appeals affirmed. Pet. App. A1-A54. The court first rejected petitioner's argument that the association of the medical practice and the law firm did not constitute a RICO enterprise. The court observed that the alleged RICO enterprise was designed "to enrich its members through the pursuit of personal injury business." Pet. App. A7-A8. Relying on *United States* v. *Turkette*, 452 U.S. 576 (1981), the court found that the government had proved that the enterprise was an "ongoing organization," that the various associates in the enterprise "function[ed] as a continuing unit," and that the association existed as an entity "separate and apart" from its criminal activities. Pet. App. A9-A11 (citations omitted). The court found it well established that the association of two legitimate businesses could constitute a RICO enterprise because "[t]here is no restriction upon the associations embraced" by the term "enterprise" in the RICO statute. Pet. App. A12 (quoting *Turkette*, 452 U.S. at 580).

The court next concluded that the district court's exclusion of Daley's proffered testimony about Maugeri's false medical bills did not require reversal. Although the court observed that this testimony might

have been probative of petitioner's knowledge of the fraudulent billing practices of its employees, it nevertheless concluded that, even if the district court erred in excluding the testimony under Rule 608(b), the error was harmless in light of the "compelling evidence supporting [petitioner's] RICO convictions." Pet. App. A30. The court specifically observed that Daley's testimony, "if germane at all, would have had, at most, tangential significance at this trial." *Ibid.*

Turning to the allegations of jury taint, the court held that the district court did not abuse its discretion in denying petitioner's motion for a new trial. Pet. App. A37-A46. While the court of appeals determined that Juror 11's extraneous contacts had given rise to a presumption of prejudice that the government was required to rebut, *id.* at A38-A39, the court concluded that the district court did not abuse its discretion in finding that the government had rebutted that presumption. *Id.* at A40. The court of appeals observed that the district court had properly conducted a thorough and individual voir dire of each juror, and that the district court was better situated to assess the jurors' demeanor and to evaluate their impartiality. *Id.* at A40-A41.

The court of appeals' review of the record led it to agree with the district court that Juror 11's comments had not prejudiced petitioner. Pet. App. A41-A42. The court observed that, while one of the comments was an inaccurate statement of the law, it was immediately "followed by a[] [correct] instruction on the law." *Id.* at A42. Moreover, six of the 12 jurors had no recollection of Juror 11's comments, one juror remembered only that Juror 11 had said that "her sister-in-law thought RICO cases were 'hard cases,'" and the juror who best remembered the comments stated that they had not been

"delved into." *Id.* at A42-A43. The court also believed that the timing of the remarks indicated a lack of prejudice to petitioner's case, in that, immediately after the remarks were made, the jury was given proper instructions on the law, and the jury proceeded to deliberate for two more days. *Id.* at A43.

The court also found no abuse of discretion in the district court's refusal to conduct a second voir dire after Juror 11 claimed that other jurors had read newspaper accounts of the case during the trial. Pet. App. A44-A46. The court of appeals explained that, because the district court had found that Juror 11's claim was not credible, and because it concluded that exposure of the jurors to the relevant newspaper articles "would not [have] rise[n] to the level of substantial prejudice," the district court was not obligated to conduct a second voir dire. *Id.* at A46.

Finally, the court rejected petitioner's argument that the indictment should have been dismissed because of alleged prosecutorial misconduct before one of the four grand juries (but not the indicting grand jury) that had investigated petitioner's offenses. Pet. App. A46-A50. Relying on *United States* v. *Mechanik*, 475 U.S. 66 (1986), the court concluded that, even if the misconduct alleged by petitioner had occurred, "the petit jury's guilty verdict rendered any prosecutorial misconduct before the indicting grand jury harmless." Pet. App. A49.

ARGUMENT

1. Petitioner argues (Pet. 12-17) that the district court erred in denying his motion for a new trial based on Juror 11's conversations with her sister-in-law, and that the district court also erred in refusing to conduct an evidentiary hearing after Juror 11 accused other

jurors of reading newspaper articles about the case. The court of appeals correctly ruled that the district court did not abuse its discretion in denying petitioner relief on either ground. See Pet. App. A37-A46.

a. "[D]ue process does not require a new trial every time a juror has been placed in a potentially compromising situation." *Smith* v. *Phillips*, 455 U.S. 209, 217 (1982). Rather, "[d]ue process means a jury capable and willing to decide the case solely on the evidence before it, and a trial judge ever watchful to prevent prejudicial occurrences and to determine the effect of such occurrences when they happen." *Ibid.* This Court has thus directed that, when allegations are made that a jury in a federal criminal trial has been tainted by extraneous influences, the trial court "should determine the circumstances, the impact thereof upon the juror, and whether or not it was prejudicial, in a hearing with all interested parties permitted to participate." *Remmer* v. *United States*, 347 U.S. 227, 230 (1954). In evaluating the circumstances, the district court has broad discretion in deciding whether to grant a motion for a new trial, see *Holt* v. *United States*, 218 U.S. 245, 250 (1910); *United States* v. *Bruscino*, 687 F.2d 938, 940 (7th Cir. 1982) (en banc), cert. denied, 459 U.S. 1211 and 459 U.S. 1228 (1983), and that discretion extends to the determination whether prejudice has been demonstrated. See *United States* v. *Resko*, 3 F.3d 684, 690 (3d Cir. 1993).

The district court did not abuse its discretion in its handling of the allegations of jury taint in this case. As this Court instructed in *Remmer* v. *United States*, *supra*, the district court held an extensive evidentiary hearing at which it questioned the jurors about the nature and extent of the contacts with persons outside the jury. After that hearing, the district court found

that petitioner was not prejudiced by Juror 11's contact with her sister-in-law. The court's finding was buttressed by the jury's possession of a copy of the court's instructions during its deliberations and by the court's supplemental instruction on the elements of the RICO and RICO conspiracy offenses. See Gov't C.A. Br. 70. Since jurors are presumed to follow the trial court's instruction (see *Francis* v. *Franklin*, 471 U.S. 307, 324 n.9 (1985)), the district court did not err in concluding that the court's instructions carried more weight with the jury than brief comments by an individual juror. The jury's continued deliberation, for two days, after hearing Juror 11's remarks, and its acquittal of petitioner on 11 counts of mail fraud further supported the court's ruling that the remarks did not prejudice petitioner. Gov't C.A. Br. 70.

It is also relevant that the evidence against petitioner was, in the district court's words, "overwhelming," see Gov't C.A. Br. 72-73, for "what really counts is whether the jury was influenced * * * when it deliberated and delivered its verdict, as we are concerned with the information's effect on the verdict rather than the information in the abstract." *United States* v. *Gilsenan*, 949 F.2d 90, 96 (3d Cir. 1991), cert. denied, 112 S. Ct. 2971 (1992). Where, as here, there is an "abundance of properly admitted evidence" to support the verdict, a district court may properly conclude that isolated extrinsic contacts are not prejudicial. See *United States* v. *Weiss*, 752 F.2d 777, 783 (3d Cir.), cert. denied, 474 U.S. 944 (1985). Petitioner advances no reason to question the district court's conclusion, made in light of the whole record, that the jury convicted petitioner on the basis of the properly admitted evidence before it, and not Juror 11's extraneous comments.

Nor does the decision below conflict with *United States* v. *Delaney*, 732 F.2d 639 (8th Cir. 1984), as petitioner contends (Pet. 14). *Delaney* involved a much more serious case of jury taint. There, the defendant was charged with receipt of a firearm by a felon and making false statements. His defense was that he did not realize that he was a convicted felon and that he could not possess a firearm. The foreman of the jury asked a police officer whether a defendant in that situation would necessarily understand the conditions of his parole. The officer responded that parolees are generally given copies of their release conditions, and it was therefore likely that a parolee would understand what he could and could not do. In a post-trial voir dire, two jurors stated that the foreman had shared that information with them. The court of appeals concluded that the defendant was prejudiced by the foreman's extraneous contact with the police officer. 732 F.2d at 641-643. That holding does not conflict with the conclusion here that petitioner was not prejudiced by Juror 11's repetition of her conversation with her sister-in-law.

b. Petitioner also argues (Pet. 16-17) that the district court erred in not holding an evidentiary hearing to investigate Juror 11's allegations that other jurors had read newspaper articles about the case before their deliberations. As we have pointed out, however, the trial court has broad discretion in deciding how to respond to allegations of jury taint of this nature. See p. 8, *supra*. It is not an abuse of that discretion for a district court to deny a post-trial hearing "at the behest of a party whose allegations if established would not entitle [him] to relief." *United States* v. *Gilsenan*, 949 F.2d at 97. Here, even though the district court did not find Juror 11's allegation credible, it nevertheless carefully reviewed the relevant newspaper articles and found that, even if

the jurors had read them, that would not have prejudiced petitioner's case. Because petitioner would not have received a new trial even if Juror 11's allegation had been true, the district court did not err in refusing to conduct a second evidentiary hearing.

2. Petitioner contends (Pet. 17-22) that the court of appeals, in upholding the district court's voir dire of the individual jurors, violated Rule 606(b) of the Federal Rules of Evidence by "mandat[ing] extensive inquiry into the validity of a verdict[.]" Pet. 18. Petitioner's reading of the court of appeals' decision is incorrect.

Rule 606(b) provides, in pertinent part:

> Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of the jury's deliberations or to the effect of anything upon that or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith, except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror.

While Rule 606(b) bars a court from inquiring how any matter operated upon an individual juror's mind, it "does not preclude * * * testimony as to the objective nature of the [outside] contact, and likewise does not preclude a finding by the trial court that the contact was harmless." *United States* v. *Hornung*, 848 F.2d 1040, 1045 n.3 (10th Cir. 1988), cert. denied, 489 U.S. 1069 (1989); see *Tanner* v. *United States*, 483 U.S. 107, 121 (1987).

The court of appeals here did not violate Rule 606(b) by approving the district court's voir dire of the former jurors. The court observed that the district court "asked each juror specific questions regarding: (1) the nature of Juror #11's comments about her sister-in-law, and (2) the identities of the jurors to whom Juror #11 made these comments." Pet. App. A40. That is precisely the kind of objective inquiry that Rule 606(b) contemplates. Without that information, a court could not objectively determine whether the jury was subjected to an improper outside influence or whether that influence was prejudicial. Indeed, in evaluating the prejudice to petitioner, the court of appeals expressly stated it must make its "determination on the basis of an objective analysis by considering the probable effect of the allegedly prejudicial information on a hypothetical average juror." Pet. App. A39. Nothing in the court of appeals' opinion suggests that a trial court should inquire into the juror's subjective impressions about the importance of the contact or invade the privacy of the jury's deliberative process.[2]

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[2] The distinction made in Rule 606(b) between the prohibited and permitted inquiries can sometimes be easier to state than to apply. The courts of appeals have thus allowed the district courts some leeway in applying the Rule, as long as the district courts remain "sensitive to the problem" of respecting jury privacy. See, *e.g.*, *United States* v. *Boylan*, 898 F.2d 230, 259 (1st Cir.), cert. denied, 498 U.S. 849 (1990). The district court struck a proper balance here. While some of the jurors spoke at length in refuting the suggestion that Juror 11's contacts had an influence on their deliberations, those jurors' assertions of continued impartiality assisted the court's assessment of whether, under an objective review, the extraneous information could have improperly influenced the jury.

3. Petitioner argues (Pet. 22-27) that an association between two legal entities cannot be an "enterprise" within the meaning of the RICO statute. That argument is incorrect. RICO prohibits, among other things, the conduct of the affairs of "any enterprise" in interstate commerce through a pattern of racketeering activity. 18 U.S.C. 1962(c). RICO defines "enterprise" to include "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." 18 U.S.C. 1961(4). As this Court has observed, the definition of "enterprise" in Section 1961(4) places "no restriction upon the associations embraced" by that term. *United States* v. *Turkette*, 452 U.S. 576, 580 (1981); see also *National Organization for Women, Inc.* v. *Scheidler*, 114 S. Ct. 798, 805 (1994). A RICO enterprise may thus consist of an association in fact between two legitimate businesses, as long as there is evidence of a "common purpose of engaging in a course of conduct," and of an "ongoing organization, formal or informal," as well as proof that the "various associates function as a continuing unit." *Turkette*, 452 U.S. at 583.

The enterprise charged here consisted of an association between petitioner's medical practice and the law firm. Those businesses conspired to collect on fraudulent insurance claims. The association of the law firm and the medical practice to engage in racketeering activity thus falls within the definition of "enterprise" found in Section 1961(4). See, *e.g.*, *United States* v. *Perholtz*, 842 F.2d 343, 352-353 (D.C. Cir.) (association in fact of individuals, partnerships, and corporations can constitute enterprise), cert. denied, 488 U.S. 821 (1988); *United States* v. *Navarro-Ordas*, 770 F.2d 959, 963 n.11 (11th Cir. 1985) (group of corporations can constitute enterprise), cert. denied, 475 U.S. 1016 (1986); *United*

States v. *Thevis*, 665 F.2d 616, 625-626 (5th Cir.) (group of individuals and corporations associated in fact can constitute enterprise), cert. denied, 459 U.S. 825 (1982).

Petitioner's reliance (Pet. 24-25) on dicta in *United States* v. *Anderson*, 626 F.2d 1358 (8th Cir. 1980), cert. denied, 450 U.S. 912 (1981), is misplaced. In deciding whether the element of an "enterprise" required proof of something more than a pattern of racketeering activity, the *Anderson* court suggested that, under the rule of *ejusdem generis*, the reference in the statutory definition of "enterprise" to include "any union or group of individuals associated in fact although not a legal entity" was controlled by the immediately previous reference in the statute to an "individual, partnership, corporation, association, or other legal entity." 626 F.2d at 1366. In *Turkette*, however, this Court rejected that construction of Section 1961(4) and held that RICO is not limited to legitimate enterprises. 452 U.S. at 580-582.[3]

4. Petitioner argues (Pet. 27-32) that the district court violated his Sixth Amendment right to compulsory process by refusing to permit a witness to testify that petitioner's billing secretary, Marie Maugeri, created fraudulent medical bills for her own benefit and tried to hide her fraud from petitioner. As the court of appeals pointed out (Pet. App. A30), however, that testimony was tangential to the main issues at trial. Evidence that Maugeri did not want petitioner to know about the falsified receipts, which were unrelated to any fraud alleged in the indictment, would not have refuted the ample evidence of petitioner's knowing involvement in the racketeering enterprise. At most, that information

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[3] *United States* v. *McClendon*, 712 F. Supp. 723 (E.D. Ark. 1988), also relied on by petitioner (Pet. 26-27), simply followed the erroneous dicta in *Anderson*.

suggests that Maugeri did not want petitioner to find out about her own misdeeds. While the impeaching evidence might have discredited some of Maugeri's testimony, any error on "this minor point was harmless due to the compelling evidence supporting [petitioner's] RICO convictions." *Ibid.*

5. Finally, petitioner contends (Pet. 32-35) that the indictment against him should have been dismissed because of alleged prosecutorial misconduct before the grand jury. Petitioner failed to raise that claim properly in the district court, and in any event, the argument is foreclosed by this Court's decision in *United States* v. *Mechanik*, 475 U.S. 66 (1986).

As the court of appeals observed, the evidence in this case was presented to four different grand juries. The first grand jury was empaneled on June 21, 1984, but did not hand down an indictment. A second grand jury heard evidence in 1986 and 1987, but it too did not deliver an indictment. The initial indictment against petitioner and his co-defendants was returned on April 19, 1989, by a third grand jury. The third grand jury subsequently filed two superseding indictments, on February 8, 1990, and February 15, 1990. Pet. App. A47; Gov't C.A. Br. 4-6.

The alleged prosecutorial misconduct apparently occurred before the second grand jury.[4] Pet. App. A48.

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[4] Petitioner does not describe any specific acts of misconduct in his petition for certiorari. See Pet. 32-35. Before the court of appeals, however, he contended that the prosecutor badgered two witnesses and made improper comments before the grand jury. Pet. C.A. Br. 31-33; Pet. App. A47-A48. Petitioner also suggested that the loss of part of the transcript of the grand jury colloquy prejudiced his claim sufficiently to require dismissal of the indictment. Pet. C.A. Br. 33-35; Pet. App. A48-A49. It is doubtful that any of those claims would support dismissal of the indictment at any stage of the proceedings, even if petitioner had preserved

Petitioner filed a motion to dismiss the indictment, issued by the third grand jury, on the basis of that alleged misconduct. On April 11, 1990, the district court denied petitioner's motion to dismiss. While the court found that the prosecutor had, at times, been "badgering, overbearing, and blunt," it also found, in light of the overwhelming evidence against petitioner, that any overreaching "did not and could not have altered the jury's independent consideration of this evidence." Gov't C.A. Br. 76.

Shortly thereafter, one of petitioner's original co-defendants entered into a plea agreement with the government. The government subsequently presented its case to a fourth grand jury, which had been empaneled on January 18, 1989. That grand jury handed down the fourth and final superseding indictment against petitioner on August 23, 1990. Petitioner did not move to dismiss that indictment. Gov't C.A. Br. 76-77. Accordingly, petitioner failed to preserve his claim of prosecutorial misconduct.[5] See Fed. R. Crim. P. 12(f).

In any event, as the court of appeals held, any error in the grand jury's charging decision was rendered harmless by the petit jury's verdict finding petitioner guilty beyond a reasonable doubt. As this Court stated in *United States* v. *Mechanik*, 475 U.S. at 73, "the societal costs of retrial after a jury verdict of guilty are far too substantial to justify setting aside the verdict

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the claim and had not subsequently been convicted. See *United States* v. *Williams*, 112 S. Ct. 1735 (1992).

[5] The court of appeals speculated that the final grand jury may have been "exposed to transcripts of the proceedings before the second grand jury, and thus exposed to the alleged prosecutorial misconduct," but nevertheless held that any error was harmless. Pet. App. A49.

simply because of an error in the earlier grand jury proceedings." Because the petit jury's verdict rendered harmless "any conceivable error in the charging decision that might have flowed from the violation" alleged by petitioner, *ibid.*, there is no basis for dismissal of the indictment.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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AUGUST 1994